



U.S. Department
of Transportation

Eastern Region-PHP-100
Office of Pipeline Safety

409 3rd St. S.W.
Suite 300
Washington, D.C. 20024

**Pipeline and
Hazardous Materials
Safety Administration**

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
AND
PROPOSED COMPLIANCE ORDER**

December 29, 2005

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Randy Barnard
Vice President,
Operations and Gas Control
Williams Gas Pipeline
2800 Post Oak Boulevard,
Houston, TX 77056.

CPF No. 1-2005-1007

Dear Mr. Barnard:

On October 4, and October 17, 2005 representatives of the Eastern Region, Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of the United States Code, conducted on-site investigations for the October 3, 2005 incident reported by Williams Gas Pipeline – Transco (WGPT) near Pennsboro Drive in Chantilly, VA. The incident occurred during a WGPT excavation activity to investigate pipeline anomalies in the Northern Virginia area. The incident site is located in a Class 3, High Consequence Area (HCA) populated area near an elementary school. This incident necessitated evacuation of over 850 school children and area residents.

As a result of these investigations it appears that you have committed probable violations noted below of the pipeline safety regulations, Title 49, Code of Federal Regulation, Part 192. The items inspected and probable violations are:

1. §192.605 Procedural manual for operations, maintenance, and emergencies.

- a) **General.** Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

- A. On October 3, 2005 the WGPT did not follow the WGPT Onshore Pipeline Construction Specification 90.05.00; Subpart 5.2.2 - Ditching Existing Pipelines, which specifies that
"... A steel bar shall be welded across the digging teeth."

Failure to cover the teeth of the back-hoe bucket contributed to the puncture of line 'C', which was in operation with natural gas at about 600 psig.

- B. On October 3, 2005 the WGPT did not follow the WGPT Onshore Pipeline Construction Specification 90.05.00; Subpart 5.2.3 Ditching Existing Pipelines, which specifies that: *"... machine excavation within 2 feet shall not be permitted..."*

WGPT did not hand dig within 2 feet of line 'A' while excavating to examine the suspected anomaly near the bottom (6 o'clock position) of pipeline 'A'. As the backhoe dug below the bottom level of line 'A', line 'C' was punctured by one of the backhoe teeth.

- C. WGPT did not follow their As-Built Survey Specification 75.0503.01, which requires:
"2.9.3: It will be the responsibility of the construction inspectors to assist the construction Contractor in verifying the survey party's staked location of the Company's existing facilities."

According to the WGPT November 29, 2005 presentation to OPS, Company inspectors failed to review the as-built drawings with the construction contractor and verify the existence of the pipeline cross-over which resulted in the puncture of line C. There were no as-built drawings at the excavation site prior to or during the excavation activity leading up to the October 3rd incident.

- D. WGPT Construction manual; Section 90.05.00, Subpart 10. Welding Qualification 10.1.5 specifies that... *" The radiographic acceptance standard for welder re-qualification and for production work shall be API 1104 (latest DOT approved edition) unless otherwise specified by the Company."* This document further states under *"10.3.27 - Company shall have the final decision on weld acceptability. Each weld not meeting the acceptability standard shall be repaired or replaced."*

The weld did not pass inspection by the WGPT Non-Destructive Testing (NDT) contract technician. The WGPT welding contract inspector overruled that decision by the WGPT NDT contract technician and accepted the weld, which allowed the pipeline to go into service with a weld not meeting the API 1104 Standard. Information supplied to PHMSA by WGPT indicated that the weld did not meet API 1104 requirements.

Upon further review at a later date and after the pipeline had been returned to service, WGPT determined that the weld did not meet API 1104. According to WGPT, the welding contract inspector did not have the authority to overrule the NDT contract technician without providing weld information to WGPT welding engineers in Houston, Texas who would resolve any disputed welds. WGPT subsequently blew the line down and repaired the weld. The non-compliant weld was in service for 13 days.

2. §192.605 Procedural manual for operations, maintenance, and emergencies.

(b)(3) Making construction records, maps, and operating history available to appropriate operating personnel.

According to WGPT's Chief Inspector for the anomaly work, during the excavation of line 'A' to examine an anomaly from a previous In-Line-Inspection (ILI) tool run, the WGPT contract excavation spotter and contract backhoe operator did not have access to the pipeline alignment sheets on-site and were unaware of line 'C' crossing under line 'A' at the excavation location.

WGPT has informed PHMSA that their procedure calls for the drawings to be on site. The failure to review the drawings directly contributed to the puncture of line 'C'.

3. §192.614 Damage Prevention Program.

A. §192.614 (c)(5) Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as possible, the activity begins.

The WGPT Survey Specification 75.0101.01; 5.2.1 requires pipeline crossovers be marked.

Also, the WGPT Survey Specification 75.0503.01 requires:

"2.9.1: The survey party will locate, stake and flag all existing Company facilities per the construction drawings within the work-space corridor."

and “2.9.2: *Adjacent facilities shall be staked in sufficient quantity and spacing not to exceed 200 foot intervals.*”

According to the WGPT November 29, 2005 presentation to OPS, WGPT failed to adequately mark with stakes or flags the crossing of transmission line ‘C’ – which was located under transmission line ‘A’, before initiating the excavation for transmission line ‘A’. The reported incident occurred at this location.

- B. §192.614 (c)(6) Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:**
(i) The inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline.

WGPT reported to PHMSA that the spotter was not spotting for the backhoe operator at the excavation site at the time of the incident. The spotter had left the immediate area.

4. §192.805 Qualification Program

- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**

- A.** WGPT Agreement Number 21-0024, Request for Service (RFS) Number 502656 with Gullett & Associates, the WGPT contract surveyors, required “*When performing work under this RFS, Contractor shall be qualified for the following Covered Tasks... CT605 – Locate Line/Install Temporary Marking of Buried Pipeline*”.

The WGPT contract surveyor who located and marked line ‘A’ near Pennsboro Drive, did not have the necessary qualification to meet the WGPT guidelines and subsequently was not qualified to perform the Covered Task (CT) 605. §192.805(b) requires that individuals performing covered tasks be qualified. WGPT did not verify qualification of this individual prior to starting work.

- B.** The WGPT contract excavation spotter on-site did not have the necessary qualifications to meet the WGPT guidelines for “*CT – 607: Damage Prevention: Observation of Excavating and Backfilling,*” and subsequently was not qualified to perform this Covered Task.

WGPT did not verify the individual’s qualifications prior to start of the excavation work.

Under 49 United States Code 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. As for the numbered items shown immediately below, the Compliance Officer has reviewed circumstances and supporting documentations involved in the above probable violations, and it is his recommendation that you be preliminarily assessed as shown below, for a total of \$600,000.

Violation #	Reference	Reference Description	Proposed Civil Penalty
1A	§192.605 (a)	General.	
1B		<i>No Steel Bar in digging teeth</i>	
1C		<i>Machine excavation within 2 feet of pipeline</i>	
1D		<i>Failure to review as-built drawings before starting excavation</i>	
Total Item 1		<i>Line in service for 13 days with non-compliant weld</i>	\$100,000
2	§192.605(b)(3)	Making construction records, maps available.	
		<i>WGPT excavation contractor did not have access to as-built drawings on-site</i>	
Total Item 2			\$100,000
3A	§192.614	Damage Prevention Program.	
	§192.614(c)(5)	<i>WGPT Survey Specification requires pipeline crossovers be marked</i>	
3B	§192.614(c)(6)(i)	<i>Spotter had left excavation site during excavation.</i>	
Total Item 3			\$200,000

4A	§192.805(b)	<p><i>Ensure individuals are qualified</i></p> <p><i>The WGPT contract surveyor was not qualified to perform covered task #605</i></p> <p><i>The WGPT contract Spotter was not qualified to perform Covered Task #607</i></p>	
4B			
Total Item 4			\$200,000
Total			\$600,000

Additionally, pursuant to 49 United States Code § 60118, the OPS proposes to issue to you a **Proposed Compliance Order** with respect to this Notice. That **Proposed Compliance Order** (PCO) is attached to and made part of this Notice.

Also attached to and made part of this Notice is a description of the available procedures for responding to this Notice. If you elect to make a response, you must do so within 30 days of receipt of this Notice or waive your right under 49 CFR 190.209. No response or a response which does not contest the allegations in the Notice authorizes the Associate Administrator, OPS, to find the facts to be as alleged and to issue appropriate orders. The 30-day response period may be extended for good cause shown and submitted within the original 30 days.

Please refer to CPF 1-2005-1007 in any correspondence/communication in this matter.

Sincerely,



For

William H. Gute
 Pipeline and Hazardous Materials Safety Administration
 Director, Eastern Region
 Office of Pipeline Safety

Enclosure

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United State Code 60118, the OPS proposes to issue to Williams Gas Pipeline-Transco (WGPT), a **Proposed Compliance Order** incorporating the following requirements:

1. To prevent the occurrence of similar incidents, WGPT will conduct an investigation to determine and document the causes of this incident, and develop a plan to improve the anomaly investigation process. The plan must include methods to improve the availability of as-built drawings and specifications for utilization by WGPT field inspection and construction personnel, and improve the temporary marking of buried pipelines during the anomaly investigation process. The plan must include methods to insure that only qualified individuals are utilized to perform covered tasks under 49 CFR Part 192 Subpart N that apply to the anomaly investigation process.
2. For all previous WGPT pipeline work involving the contract welding inspector in item #1 D of the **Notice**, WGPT will review records for each pipeline weld put into service and determine if any welds rejected by NDT technicians, were put into service, and are still in service. WGPT will prepare a report summarizing the findings.

Please submit all reports and investigative findings and plans for approval to the Regional Director, Eastern Region Office of Pipeline Safety, 409-3rd St. S.W., Suite 300, Washington, DC 20024 within 90 days of receipt of the Final Order. The above plan will become final upon approval of the Regional Director, Eastern Region Office of Pipeline Safety.

I. Procedures for Responding to a Notice of Probable Violation:

The requirements of 49 C.F.R. Part 190, Subpart B govern your response to this Notice of Probable Violation ("Notice").

Within 30 days of receipt of a Notice, the respondent shall respond to the Regional Director who issued the Notice in the following way:

(a) **When the Notice contains a proposed civil penalty* --**

- (1) Pay the proposed civil penalty, authorizing OPS to make findings and to close the case with prejudice to the respondent. Payment terms are outlined in Attachment A;
- (2) Submit written explanations, information, or other materials regarding the merits of the allegations and seek elimination or mitigation of the proposed civil penalty; or
- (3) Request a hearing as described below to contest the allegations and proposed assessment of a civil penalty.

* Failure of the respondent to respond within 30 days of receipt of a Notice containing a civil penalty constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

(b) **When the Notice contains a proposed compliance order --**

- (1) Notify the Regional Director that you intend to take the steps in the proposed compliance order;
- (2) Submit written explanations, information, or other materials in answer to the allegations in the Notice and object to or seek clarification of the proposed compliance order items in whole or in part;
- (3) Request a hearing as described below to contest the allegations in the Notice; or
- (4) Request consideration of a consent order as described below pursuant to 49 C.F.R. § 190.219.

(c) **When the Notice contains an amendment of plans or procedures --**

- (1) Notify the Regional Director that you intend to take the steps in the proposed amendment of plans or procedures;

(2) Submit written explanations, information, or other materials in answer to the allegations in the Notice and object to or seek clarification of the proposed amendment items in whole or in part; or

(3) Request a hearing as described below to contest the allegations in the Notice.

(d) When the Notice contains **warning items** -- These items may be addressed at the operator's discretion; however, no response is required.

II. Procedure for Requesting a Hearing

A request for a hearing must be in writing and accompanied by a statement of the issues which the respondent intends to raise at the hearing. The issues may relate to the alleged violations, new information, or to the proposed compliance order or proposed civil penalty amount. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to submit a request for a hearing in writing waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

III. Extensions of Time

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Region Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

IV. Freedom of Information Act

Any material prepared by OPS, including the violation report, this Notice, and any order issued in this case, and/or any material provided to OPS, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If the information you provide is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if OPS, after review of the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release materials under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

V. Small Business Regulatory Enforcement Fairness Act Information

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247).

ATTACHMENT A -- PAYMENT INSTRUCTIONS

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order should be made payable to the "Department of Transportation" and should be sent to:

General Ledger Branch (AMZ-300)
Federal Aviation Administration
U.S. Department of Transportation
Mike Monroney Aeronautical Center
P.O. Box 25082
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the General Ledger Branch at (405) 954-4719, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)) through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the General Ledger Branch at (405) 954-4719, or at the above address.

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ARB NO.</u> (provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)

9. <u>BENEFICIAL (BNF)- AGENCY LOCATION CODE-/ AC 69-00-1105</u>		
10. <u>REASONS FOR PAYMENT</u> OBI = Payment for Civil Penalty/PHMSA CPF #		

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to Pipeline and Hazardous Materials Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine digit identification number, it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE; \$10,000.00**

Block #7 - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, it must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/AC-69001105" Ensures the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "OBI = Payment for Civil Penalty/PHMSA CPF number and your company's name. Example: OBI = Payment for Civil Penalty/PHMSA CPF #1-2002-5001/ ABC Pipeline Co.

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer to the General Accounting Division (405) 954-4719.